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OFFICE OF PETITIONS

In re Application of
Baumgartner, et al.
Application No. 10/737,216
Filed: December 15, 2003
Attorney Docket No. 132131-1

ON PETITION

This is a decision on the "Petition to Reset a Period for Reply Due to Late Receipt of and Office Action under MPEP 710.06", filed on November 18, 2005. The petition will be treated under 37 CFR 1.181.

The petition is **DISMISSED**.

The record reflects that on May 2, 2005, a "Revocation of Power of Attorney and Change of Correspondence Address" was filed. It does not appear that the revocation was entered at that time, however. A final rejection was mailed in the application on August 12, 2005, allowing a shortened statutory period for reply of three months from its mailing date; it was mailed to the previous attorney of record. The final rejection was returned to the USPTO on September 1, 2005, as 'undeliverable'. The "Revocation of Power of Attorney and Change of Correspondence Address" was filed again on November 3, 2005, and entered into the record. Petitioner files the subject petition requesting that the period for response to the final Office action be reset because the attorney of record received the final Office action late due to the Office's mailing error.

While the USPTO failure to timely enter the "Revocation of Power of Attorney and Change of Correspondence Address" resulting in the mailing error is noted, the response to the final Office action was still received within the shortened statutory period set for reply. The amendment that is responsive to the final Office action was received on November 18, 2005, with a certificate of mailing dated November 14, 2005. As petitioner managed to file a timely response to the final Office action, despite the USPTO mailing error, the resetting of time period for the filing a response to the final Office action would be of little consequence and would likely further delay the prosecution of the application. The petition is dismissed, accordingly.

The application file is being directed to Technology Center 2800, GAU 2834 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

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Office of Petitions